livery to a third person with instructions to turn the property over to the donee is sufficient. *Williams* v. *Guile,* 117 N. Y. 343, 22 N. E. 1071, 6 L. R. A. 366; *Kemper* v. *Kemper,* 1 Duv. (Ky.) 401, 85 Am. Dec. 636; *Caylor* v. *Caylor's Estate,* 22 Ind. App. 666, 52 N. E. 465, 72 Am. St. Rep. 331; *Hogan* v. *Sullivan,* 114 Ia. 156, 87 N. W. 447. This is true even when the donor expressly instructs the agent to deliver the property after his death; since delivery to the agent of the donee is equivalent to delivery to the donee. *Varley* v. *Sims,* 100 Minn. 331, 111 N. W. 269, 10 Ann. Cas. 473; *Devol* v. *Dye,* 123 Ind. 321, 24 N. E. 246, 7 L. R. A. 439. But see *Windows* v. *Mitchell,* 5 N. C. 127. And the death of the agent before delivery by him to the donee does not defeat the gift. *Caylor* v. *Caylor's Estate, supra.* Nor is it defeated by the fact that the agent is the husband or wife of the donor. *Grymes* v. *Hone,* 49 N. Y. 17, 10 Am. Rep. 313. Or that he is a member of the donor's household. *Waring's Adm'r* v. *Edmonds,* 11 Md. 424.

Where the donor expressly retains control over the property delivered to the agent, the delivery is not sufficient, for then the agent is only the agent of the donor. *Daniel* v. *Smith,* 75 Cal. 548, 17 Pac. 683. Where he delivers property to an agent to be given to a third person in the event of the donor's death, yet reserves the right to the income from the property during his natural life, this is not sufficient to create a valid gift *causa mortis. Noble* v. *Garden,* 146 Cal. 225, 2 Ann. Cas. 1001. The same is true where the agent is allowed to use the property for all further needs of the donor, and to deliver what is left at his death to the donee. *Daniel* v. *Smith, supra.* And where the agent is to use a part of the property in connection with the funeral before turning over the rest to the donee, there is no gift. *Nelson* v. *Peterson,* 202 Mass. 369, 88 N. E. 916, 132 Am. St. Rep. 503. But it has been held, although the decision seems doubtful, that a delivery to an agent with express instructions to keep the property for a while in anticipation of the further needs of the donor, is sufficient in spite of the instructions. *Grymes* v. *Hone, supra.* In the absence of evidence to the contrary, it will always be presumed that the third person is the agent of the donee, and not of the donor. *Johnson* v. *Colley,* 101 Va. 414, 44 S. E. 721, 99 Am. St. Rep. 884; *Varley* v. *Sims, supra.* It is not requisite to the validity of a gift made through a third person that the donee expressly accept it, since it is presumed that he will accept what is a benefit and no burden. See *Varley* v. *Sims, supra.*

The gift is invalid when the instructions for distribution by the agent are uncertain and indefinite. See *Newton* v. *Snyder,* 44 Ark. 42, 51 Am. Rep. 587. Where the agent is trustee for the donees, and neither the beneficiaries nor the shares of each are clearly expressed, the gift fails and the property attempted to be disposed of goes to the personal representatives of the donor. *Sheedy* v. *Roach,* 124 Mass. 472.

INSURANCE—FORFEITURE—SALE BY TENANT IN COMMON.—An insurance policy which contained a condition that if any change in interest, title or possession take place the entire policy should be void, was issued to tenants in common covering certain property. One of the tenants

in common sold his undivided interest in the property to a third person. The property was afterwards destroyed, and the remaining tenant in common brought an action on the policy for his share of the insurance. *Held,* he can recover. *Firemen's Insurance Co.* v. *Larey* (Ark.), 188 S. W. 7.

There is great conflict of authority among the adjudged cases as to when an insurance policy is avoided on account of a breach of the alienation clause of the standard fire insurance policy. The question often arises when one partner transfers his interest in the partnership. While there is great conflict as to whether or not this will avoid the policy, it may be stated that the general rule is that if one partner sells his interest in the partnership to a third person the policy may be avoided. *Drennen* v. *London Assurance Co.,* 20 Fed. 657. See *Malley* v. *Atlantic Fire & M. Ins. Co.,* 51 Conn. 222; *Germania Fire Ins. Co.* v. *Home Ins. Co.,* 144 N. Y. 195, 39 N. E. 77, 43 Am. St. Rep. 749, 26 L. R. A. 591. On the other hand, however, many courts hold that if one partner sells his interest to another partner the policy is not thereby avoided. *Burnett* v. *Eufaula Home Ins. Co.,* 46 Ala. 11, 7 Am. Rep. 581. See *Virginia Fire & M. Ins. Co.* v. *Vaughan,* 88 Va. 832, 14 S. E. 754; *German Mutual Fire Ins. Co.* v. *Fox,* 4 Neb. 833, 96 N. W. 652, 63 L. R. A. 334. In Tennessee it has been held that if one partner sell his interest to another partner, the remaining partner may, in case of loss, recover *pro rata* for his original share, but can recover nothing on the share transferred to him. *Hobbs* v. *Memphis Ins. Co.,* 1 Sneed 444.

If the policy covers several different things and there is a breach of a condition as to the interest, title, or possession of one of the things insured, the majority doctrine is that the policy is thereby rendered void, and there can be no recovery for the loss of any of the property. *Kahler* v. *Iowa State Ins. Co.,* 106 Ia. 380, 76 N. W. 734; *Germania Fire Ins. Co.* v. *Schild,* 69 Ohio St. 136, 68 N. E. 706, 100 Am. St. Rep. 663. There is, however, much authority to the contrary. *Royal Ins. Co.* v. *Martin,* 192 U. S. 149; *Loomis* v. *Rockford Ins. Co.,* 77 Wis. 87, 45 N. W. 813, 20 Am. St. Rep. 96.

It would seem, on principle, that the sale by one tenant in common to a third person would be a breach of the alienation clause, and would avoid the entire policy and not merely that covering the interest transferred. See 2 COOLY, BRIEFS, L. INS., 1913; *Germania Fire Ins. Co.* v. *Schild, supra; Home Ins. Co.* v. *Connally,* 104 Tenn. 93, 56 S. W. 828.

INTOXICATING LIQUORS—CONSTITUTIONALITY OF STATUTE—PROHIBITION OF POSSESSION.—Before the prohibition law (Alabama Laws 1915, p. 44) went into effect, the defendant acquired for his own use a greater amount of liquor than the law allowed one to possess. After the law became effective the defendant was indicted for a violation of it, and attacked its constitutionality on the ground that it violated the Fourteenth Amendment. *Held,* the statute is valid. *O'Rear* v. *State* (Ala. App.), 72 South. 505.

The authority of a state to exercise its police power in matters concerning the public health, safety or morals is not denied; but the ex-